

## **EXHIBIT 2**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NO. 2:12-CV-01244-MSG

|                               |   |                     |
|-------------------------------|---|---------------------|
| ANGELINE MONTGOMERY           | ) | DEPOSITION UPON     |
|                               | ) |                     |
|                               | ) | ORAL EXAMINATION    |
| Plaintiff,                    | ) |                     |
|                               | ) | OF                  |
| - vs -                        | ) |                     |
|                               | ) | ANGELINE MONTGOMERY |
| MIDLAND CREDIT MANAGEMENT,    | ) |                     |
| INC.; MIDLAND FUNDING, LLC;   | ) |                     |
| AND BURTON NEIL & ASSOCIATES, | ) |                     |
| P.C.                          | ) |                     |
|                               | ) |                     |
| Defendants.                   | ) |                     |

- - - - -

TRANSCRIPT OF DEPOSITION, taken by and  
before KIMBERLY WENDT, Certified Professional  
Reporter and Notary Public, at the offices of  
MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN, 2000  
Market Street, 23rd Floor, Philadelphia,  
Pennsylvania, on Thursday, February 28, 2013,  
commencing at 10:30 a.m.

ERSA COURT REPORTERS  
United Plaza - Suite 1520  
30 South 17th Street  
Philadelphia, Pennsylvania 19103  
(215) 564-1233

ANGELINE MONTGOMERY

1 A. Say that again?

2 Q. What made you believe that Midland was  
3 hired to collect a debt, related to a Capital One  
4 account?

5 A. I cannot say yes or no to that, because I  
6 don't know. Maybe they bought the thing from  
7 Capital One, but I don't know.

8 Q. Okay. Back to Montgomery-3, which is the  
9 check, have you ever seen this document before?

10 A. No. This is my first time, or -- my first  
11 time seeing it.

12 Q. Can you --

13 MS. NOVAK: I want to make sure  
14 we're talking about the same thing. Maybe  
15 not this particular photocopy, but what  
16 he's showing you, have you seen  
17 Montgomery-3 previously.

18 THE WITNESS: Oh, yes.

19 BY MR. METCHO:

20 Q. You've seen the check issued by Capital  
21 One in the past, that particular check?

22 A. This photocopied check?

23 Q. Yes.

24 A. Yes.

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1 Q. When have you seen that?  
2 A. I saw it yesterday.  
3 Q. Prior to yesterday, have you ever seen it?  
4 A. No.  
5 Q. Okay. Ms. Montgomery, can you tell me who  
6 issued that check?  
7 A. I believe it's Capital One.  
8 Q. And who is the check made out to?  
9 A. Angeline Montgomery.  
10 Q. Is the name spelled differently than you  
11 would spell your name?  
12 A. No.  
13 Q. And what is the date on the check?  
14 A. October 31, 2007.  
15 Q. How much is the check made out for?  
16 A. \$10,000.00.  
17 Q. And who was the check issued by?  
18 A. Stephen something. Linekon (sp)?  
19 Q. Bottom, left corner?  
20 A. Yes. I'm looking at it now. Stephen,  
21 right?  
22 Q. Okay. That's fine. We'll move onto the  
23 next question. Okay. Looking at the second image  
24 on Montgomery-3, whose signature appears at the top

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1 of the endorsement section?

2 A. It looks like Angeline Montgomery.

3 Q. Okay. Is that your signature?

4 A. No, it is not.

5 Q. Do you know who signed your signature?

6 A. I do not.

7 Q. Do you know when it was signed?

8 A. I do not.

9 Q. Did you give anyone authorization to sign

10 this particular check?

11 A. No.

12 Q. Looking to the second line, do you

13 recognize that signature?

14 A. No.

15 Q. Can you read that signature?

16 A. I cannot.

17 Q. Okay. Now, looking at the third line, can

18 you read those initials?

19 A. I think -- I think it's DPS.

20 Q. Do you know anyone with the initials DPS?

21 A. No.

22 Q. Do you know -- do you have any reason to

23 believe that someone would sign the letters DPS, or

24 do you know what -- do you have any reason to

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1 believe that someone would sign the check DPS?

2 A. No.

3 Q. Do the initials DPS signify anything to  
4 you?

5 A. No.

6 Q. So to go back, you did not endorse the  
7 check?

8 A. I did not, no.

9 Q. Did you provide anyone with any  
10 authorization to endorse the check?

11 A. No.

12 Q. Okay. In 2007, did you have any bank  
13 accounts with Commerce Bank?

14 A. Commerce? They have changed the name? I  
15 cannot remember what I have had at times in  
16 different banks, and the banks' name have been  
17 changed.

18 Q. What banks have you used since 2007?

19 A. I cannot remember the banks that I used in  
20 that year, but I know I had -- I have always dealt  
21 with Citibank, and I have dealt with other banks,  
22 but I can't remember. Wachovia and even Wells  
23 Fargo, I've dealt with all of them, but they have  
24 all changed the name, so I don't know.

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1 Q. Did you deposit the check into a checking  
2 account at any point?

3 A. Do I deposit?

4 Q. This particular check.

5 A. No.

6 Q. Did you ever spend any of the proceeds of  
7 that particular check?

8 A. No.

9 Q. Did you ever submit an application with  
10 Capital One?

11 A. No.

12 Q. Did you ever make any payment toward this  
13 particular --

14 A. No. It was not mine, so I couldn't do  
15 that.

16 Q. Okay. I'd like you to turn back to the  
17 Complaint -- and if you would like to keep that in  
18 front of you, what I'm going to do is reference  
19 documents through the Complaint. If you could turn  
20 to paragraph eight of the Complaint, now can you  
21 please explain to me your assertion that this  
22 particular debt obligation arose from transactions  
23 that were for your personal, family, or household  
24 use?

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1 MS. NOVAK: Objection as to  
2 form.

3 BY MR. METCHO:

4 Q. Did you use this debt -- did you use the  
5 proceeds from this check for any personal reasons?

6 A. No.

7 Q. Did you use the proceeds from this check  
8 for any family reasons?

9 A. No.

10 MS. NOVAK: Objection.

11 THE WITNESS: No. I did not  
12 take the check, so I couldn't use it.

13 BY MR. METCHO:

14 Q. So it's safe to say you didn't use the  
15 proceeds for any household purposes then?

16 A. No.

17 Q. Okay. Ms. Montgomery, you had stated  
18 earlier that you were the victim of identity theft?

19 A. Yes.

20 Q. What makes you make that assertion?

21 A. Because someone already -- someone went  
22 and took my Social Security -- okay, my Social  
23 Security and went and got some money from Capital  
24 One that I did not know of, and the blame came to



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1 me. I do not know who took it out. I just suspect  
2 somebody that took it out, that used my name, and it  
3 was a theft.

4 Q. When did you first recognize that you may  
5 have been the victim of identity theft?

6 A. Capital One call me and told me that --  
7 the person, they have been writing me, but I didn't  
8 pay any mind, because I'm sure I did not take any  
9 money. So then, they started calling me, and then  
10 they wrote me an official letter saying how much was  
11 this money, and blah, blah, blah, blah, blah. Upon  
12 that --

13 Q. Ms. Montgomery, may I stop you. Can you,  
14 instead of saying --

15 A. Okay.

16 Q. I just want you to explain your side of  
17 the story, that's all, in the most complete way  
18 possible.

19 A. So from the -- when Capital One wrote me  
20 and told me that I have taken this money, and the  
21 balance was due, I went straight to the police  
22 station in the Northeast and reported it as someone  
23 had used my Social Security and had gotten some  
24 money. They gave me a form. They filled out a

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1 form, and told me I should go to the Northeast  
2 Detectives in Philadelphia, the Northeast  
3 Detectives. I went straight there and gave them the  
4 form from the police, and from there, Capital One  
5 still was calling me every day and confusing me, and  
6 that is that.

7 Q. Did you ever dispute the debt with Capital  
8 One?

9 A. I told them, called them and told them.

10 Q. When was the first time you called them  
11 and told them you did not owe the debt?

12 A. I cannot remember the right time, but when  
13 they wrote me this letter, that's when -- and I made  
14 a report -- I told them before that I did not owe  
15 this, but I got serious when they sent me this  
16 report, and that's when I had to go to the police  
17 and the detectives.

18 Q. When you first sent a dispute to Capital  
19 One, how exactly did they respond?

20 A. They sent -- they sent me some form to  
21 fill in, and upon that, that's when I informed them  
22 that I was not responsible.

23 Q. Okay. Ms. Montgomery, we discussed a  
24 little bit about a police report, so what I would

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1 and did this, and gave me this problem that I'm  
2 trying to solve.

3 Q. Okay. Why do you have reason to believe  
4 that Jonathan J. Williams used the Capital One  
5 account?

6 A. Well, at first I really had no sense of  
7 who could have done this to me, but when they sent a  
8 letter to me with this address on it --

9 Q. Which address?

10 A. This Blunston Avenue, Darby, Pennsylvania.

11 Q. When did you receive a letter from Capital  
12 One with that address?

13 A. No, I did not -- they did not send me a  
14 letter with that address, but I think something on  
15 it with this address -- but I put this one only,  
16 because this is where he lived, he lives.

17 Q. How did you know that he lived there?

18 A. I have been to the man house, because he  
19 used to do my income tax.

20 Q. Okay.

21 A. And he had privilege to my -- all my  
22 Social Security, and all -- and everything that  
23 secret to me. He knew all about it.

24 Q. When did you first meet Mr. Williams?

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1 letter?

2 A. I'm sorry. This is the address that made  
3 me know that it was Jonathan Williams. And then,  
4 when Capital One wanted to collect this money, they  
5 sent that type of letter to Kirkwood Road.

6 Q. What type of letter to Kirkwood Road?

7 A. These ordinary letters.

8 Q. So why is 224 Blunston Avenue listed on  
9 this letter?

10 A. I do not know. That -- I believe it was  
11 the place that they send the check, and how could  
12 Capital One send other letters with Kirkwood Road.

13 Q. Well, if this letter was addressed to 224  
14 Blunston Avenue in Darby -- and you never lived  
15 there, correct?

16 A. I never.

17 Q. How did you get this letter?

18 A. It was sent to Kirkwood Road.

19 Q. There was an additional copy sent to  
20 Kirkwood Road?

21 A. It was the same letter, but on the  
22 outside, it had Kirkwood Road. On the envelope,  
23 they had Kirkwood Road, and inside they had  
24 Blunston.

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1 me, Ms. Montgomery?

2 A. On or about August 5, 2011, plaintiff was  
3 forced to incur out of pocket expenses, in order to  
4 appear in court to defend herself against the  
5 lawsuit filed by defendants Midland and Burton Neil.

6 Q. Okay. So tell me about what happened on  
7 August 5th?

8 A. August 5th, my husband had to leave --  
9 take off from work, to come with me to go to court.

10 Q. Okay. Why did you believe that you had to  
11 go to court on August 5, 2011?

12 A. That's what the -- the -- they requested  
13 that I go to court August -- that day.

14 Q. And in paragraph 20, you're stating that  
15 you appeared in court to defend yourself?

16 A. Yes.

17 Q. Okay. So tell me what happened in court  
18 on August 5, 2011?

19 A. My husband and I went to court. We sat  
20 down as usual, and --

21 Q. Let me stop you for one second. You said  
22 as usual. Have you been in court previously?

23 A. If I -- no.

24 Q. Okay. Continue. I'm sorry to interrupt

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1     you.

2     A.           We went to court -- well, everybody sits  
3     down when they go to court. That's why I said as  
4     usual.

5     Q.           I'm sorry for interrupting.

6     A.           As usual. And everybody looking at me, or  
7     at me and my husband, and we stayed there for so  
8     long, so many hours. Then, I ask my husband they  
9     did not call us. We sign in and all. We sign in  
10    when we got there.

11    Q.           Where did you sign in?

12    A.           To the courthouse, on the -- what the  
13    thing -- something they have there, when you go to  
14    court, you have to sign in.

15    Q.           Did you sign anything that had your name  
16    printed on it?

17    A.           No. Every -- no. No.

18    Q.           Okay. Continue. So you -- go ahead.

19    A.           When we stayed for a few hours, then I ask  
20    my husband, but will they not call us? He said  
21    we'll wait, so we sat down again. They still did  
22    not call, so we decided to go to the man, the clerk  
23    of court. When we went to clerk of court, he told  
24    us that Midland attorney was in court, and we should

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1 go to him.

2 Q. You were told that Midland's attorney was  
3 in court. Let me ask you this. How did the clerk  
4 know that you had been sued by Midland?

5 A. Well, I should take my word back. I don't  
6 know if it was Midland that I told him about, but I  
7 was sued, and he told me that this -- that they had  
8 a representative there.

9 Q. That Midland did?

10 A. I cannot remember if it was Midland or  
11 who, but this Midland that sue me, Burton and  
12 Midland that sue me, they had a representative  
13 there, and so that's when we went to him, and he  
14 said --

15 Q. Do you remember the individual's name?

16 A. No.

17 Q. Okay. Continue, please?

18 A. Yes. So he told us that I -- I told my  
19 name, and he said, oh, I'm sorry, but you can go  
20 home.

21 Q. And why --

22 A. That's why --

23 Q. Go on. I'm sorry to interrupt you. Why  
24 did he tell you, you could go home?

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1 A. Because the case was withdrawn. I had --

2 Q. Why was the case withdrawn?

3 A. They had looked into it, and they saw that  
4 I was not the owner. That's why he said the case  
5 was withdrawn. And it was then I got very, very  
6 annoyed, and then I took them to an accountant -- an  
7 attorney.

8 Q. Okay. Why were you annoyed at that point?

9 A. Because why did they not investigate  
10 before they sue me. I had to -- I'm almost sick.  
11 I'm disabled. I had to leave my house, and my  
12 husband had to leave a job. For the same thing, I  
13 had to get Citibank to verify every month, to go  
14 through my -- to give me a report of my thing, all  
15 the kind of thing that I just talked about that.

16 Q. Well, why didn't you just provide Midland  
17 with the appropriate documentation, when they  
18 started the collection activity?

19 A. That's what I'm saying, that Midland was  
20 supposed to investigate. They will just go around  
21 and taking people information and sue them?

22 Q. So it's your position that Midland  
23 should've --

24 A. Investigated.



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1 C E R T I F I C A T I O N

2

3 I, KIMBERLY WENDT, a Certified  
4 Professional Reporter and Notary Public for the  
5 Commonwealth of Pennsylvania, do hereby certify that  
6 the foregoing is a true and accurate transcript of  
7 the stenographic notes taken by me in the  
8 aforementioned matter.

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KIMBERLY WENDT